

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

DEKENYA NELSON

§

VS.

§

CIVIL ACTION NO. 1:07-CV-788

GARZA

§

MEMORANDUM OPINION REGARDING TRANSFER

Plaintiff Dekenya Nelson, a prisoner currently confined at the Estelle Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Garza. The defendant is employed as a property officer at the Smith Unit where plaintiff was previously confined.

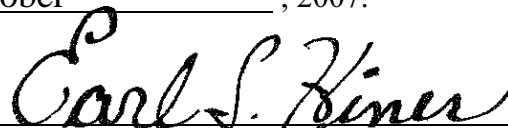
Discussion

The Civil Rights Act, 42 U.S.C. § 1981, *et seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28 U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972); *aff'd per curiam*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, Section 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose. However, under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a district court may transfer any civil action to any other district where it could have been brought. Such a transfer may be done *sua sponte* and is reviewable only for an abuse of discretion. *Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989).

Plaintiff complains of an incident that took place at the Smith Unit. The Smith Unit is located in the Lubbock Division of the United States District Court for the Northern District of Texas. The court has considered the circumstances and has determined that the interest of justice would best be served if the complaint were transferred to the district in which the claims arose. Therefore, the case should be transferred to the Northern District of Texas. An order so providing will be entered by the undersigned.

SIGNED this 31 day of October, 2007.



EARL S. HINES
UNITED STATES MAGISTRATE JUDGE